



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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NR115 Alternative Development Subchapter Proposal

DRAFT

Purpose:

Conservation subdivision design is becoming an increasingly popular tool as a way to address environmental and social issues in Wisconsin. Around Wisconsin's waterfronts, new development is encroaching into more environmentally sensitive areas that should be protected. Conservation subdivisions, characterized by residential developments in which a significant portion of the property is set aside as undivided, permanently protected conservation area or open space, while houses are clustered on the remainder of the property, may create an answer for some of the new developments in these marginal areas.

Conservation subdivisions can be a valuable tool for protecting water quality and wildlife habitat, two of the outlined purposes of shoreland zoning. Because houses are clustered on only a portion of the land, conservation subdivisions tend to have less impervious surface coverage than conventional subdivisions. The second way conservation subdivisions can protect waterbodies is by including riparian buffers, floodplains, wetlands and significant groundwater recharge areas in the permanently protected conservation area.

In addition to the flexibility granted by conservation subdivisions, communities may recognize the need for multiple family dwellings in the shoreland zone to offer more affordable waterfront housing for middle income residents. Similar requirements would be in place for both conservation subdivisions and multiple family dwelling units. Both types of development could be allowed under the revised NR 115 provided that all of the following standards are met:

- Permanent dedication as conservation area of ____% (most of the literature indicates 20-50%) of the total area of the parcel to be developed.
- Conservation areas must incorporate as much of the primary buffer area as possible and be contiguous to the OHWM and/or connected to other open space or conservation areas.
- As amount of buffer area included in the conservation area (along OHWM) is increased, the width or number of viewing access corridors can be proportionately increased.
- Minimum setback of 75 feet for all structures.
- A restrictive covenant or conservation easement is recorded for the conservation area.

Approval for an alternative development would require a proposal that would achieve the purposes of Chapter NR115, Wis. Admin. Code, and would satisfy general alternative development standards in NR 115 (based on the above criteria), but would not be required to meet all of the minimum standards found in NR115. If a community chooses to exercise this flexibility, a review procedure would apply, including providing notice to the Department of Natural Resources.

Methodology:

If an alternative development is proposed, the following information would be required for the governing body to make a determination of whether the development will comply with the intent and purposes of shoreland zoning and any comprehensive land use plans currently in use.

- Primary conservation areas including floodplains, wetlands, riparian buffers, steep slopes (which may be highly erodible), and habitat for threatened or endangered species.
- Secondary conservation (areas to the extent feasible) i.e. large stands of forest, farmland and existing trails.
- Current building density on the waterbody, including the number, location and density of principal and accessory structures in the shoreland zone, the legal status of existing buildings that are non-conforming and the density allowed under current and proposed local land use regulations.
- Land coverage including the current total percentage of impervious surfaces.
- Extent of commercial, industrial or other non-residential uses in the shoreland area.
- Municipal or other utilities.
- Aerial photograph of shoreland area that is proposed to be developed.
- Land use regulations currently in effect in the area to be developed and an explanation of how applicable alternative development regulations would affect the protected shoreland and meet the purposes and intent of the communities shoreland zoning ordinance and the provisions of NR 115.
- Any other information which the community or Department may reasonably require.

The enforcing community, after notice to DNR, would approve or deny the request for an alternative development and issue written findings in support of the decision (copy sent to Department). A request for an alternative development may be approved only if the developer demonstrates using the evidence required above, that the purpose and intent of Chapter NR115 are met and the water quality, habitat, and aesthetic values of the shoreland zone are preserved.

Result:

A process by which communities can approve alternative forms of development within the shoreland zone that are designed to meet the purposes of local shoreland zoning ordinances and Chapter NR115, but which may not meet the generally-applicable minimum standards found in Chapter NR115.